

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

SANDRA LEDESMA, §
Plaintiff, §
§
v. § CIVIL ACTION NO. 4:22-cv-00824
§
QUICKTRIP CORPORATION d/b/a §
QUICKTRIP, § JURY DEMANDED
Defendant. §

DEFENDANT'S NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Pursuant to the terms and provisions of 28 U.S.C. §§ 1441 and 1446, Defendant QuikTrip Corporation, in the cause styled "*Sandra Ledesma v. QuickTrip Corporation d/b/a QuickTrip*," originally pending as Cause No. 236-335436-22 in the 236th Judicial District Court of Tarrant County, Texas, files this Notice of Removal of the cause to the United States District Court for the Northern District of Texas, Fort Worth Division.

I.
BASIS FOR REMOVAL

The basis of the removal of this action is diversity jurisdiction under 28 U.S.C. § 1332. In particular, diversity jurisdiction exists in this case because there is complete diversity of citizenship between the proper parties, as discussed further herein, no proper Defendant is a citizen of the State of Texas, and the amount-in-controversy exceeds \$75,000.00, exclusive of interest and costs.¹

¹ See 28 U.S.C. § 1332 (2018).

II.
DIVERSITY JURISDICTION

Plaintiff, at the time of the incident giving rise to this lawsuit, at the time of the initial filing of this action, and at the current time of the removal of this action, was and is a citizen, resident, and domiciliary of the State of Texas.

QuikTrip Corporation, at the time of the initial filing of this action and at the time of the removal of this action, was and is a corporation formed under the laws of Oklahoma with its principal place of business in Tulsa, Oklahoma. QuikTrip Corporation has never been a resident of, incorporated in, or had its principal place of business in the State of Texas.

III.
FACTUAL BACKGROUND

Plaintiff claims that, on or about October 13, 2020, while Plaintiff was an invitee at QuikTrip's store located at 1101 Hemphill Street, Fort Worth, Texas 76104, she slipped and fell on a liquid substance on the floor. Plaintiff filed suit on August 12, 2022, in the 236th Judicial District Court of Tarrant County, Texas, alleging a negligence cause of action against Defendant.

IV.
THE AMOUNT-IN-CONTROVERSY

Plaintiff judicially admits in her First Amended Petition that she is seeking damages in excess of \$75,000.00.² Specifically, Plaintiff seeks monetary relief over \$250,000, but not more than \$1,000,000,³ including past and future medical expenses, past and future physical pain and mental anguish, past and future physical impairment, past and future disfigurement, and past

² See Pl's 1st Amd. Pet. (Exh. 4).

³ *Id.* at p. 1, ¶ 1.

lost wages.⁴ As a result, the amount-in-controversy in this case exceeds \$75,000.00, exclusive of interest and costs, and this case is removable.⁵

**V.
REMOVAL IS TIMELY**

This removal is timely because it is filed “within thirty days after receipt, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained the case is one which is or has just become removable.”⁶ Defendant first became aware this case was removable on or about September 13, 2022, when Defendant was served with Plaintiff’s First Amended Petition. Accordingly, this removal is timely because it is made within thirty days after the receipt by Defendant of the document that first demonstrated the case was removable. Moreover, more than one year has not passed since the commencement of the action in state court on August 12, 2022.⁷

**VI.
VENUE**

Venue is proper in this district under 28 U.S.C. § 1441(a) because this district and division embrace the county in which the removed action has been pending.

⁴ *Id.* at. pp. 6-7, ¶ 27 (including subparagraphs A through J).

⁵ See *S.W.S. Erectors, Inc. v. Infax, Inc.*, 72 F.3d 489, 492 (5th Cir. 1996); see also *Laughlin v. Kmart Corp.*, 50 S.W.3d 871, 873 (10th Cir. 1995) (amount in controversy is ordinarily determined by allegations in complaint).

⁶ 28 U.S.C. § 1446(b).

⁷ See *id.*

VII.
PROCEDURAL REQUIREMENTS

Defendant filed with the Clerk of the 236th Judicial District Court Tarrant County, Texas a Notice of Filing Notice of Removal to Federal Court contemporaneously with the filing of this Notice of Removal.

Pursuant to Local Rule 81.1, the following documents are attached hereto for the Court's reference:

- (1) State court docket sheet (as of September 16, 2022);
- (2) Plaintiff's Original Petition (filed on August 12, 2022) with Service of Citation (served on QuikTrip Corporation on August 19, 2022);
- (3) Defendant's Original Answer and Verified Denial (filed on September 9, 2022);
- (4) Plaintiff's First Amended Petition (filed and served on September 13, 2022); and
- (5) Defendant's Original Answer to Plaintiff's First Amended Petition (filed on September 16, 2022).

Also, in compliance with Local Rule 81.1, Defendant has filed the following documents with the Notice:

- Civil Cover Sheet;
- Supplemental Civil Cover Sheet; and
- Certificate of Interested Persons.

WHEREFORE, PREMISES CONSIDERED, Defendant QuikTrip Corporation respectfully prays that this case be removed to the United States District Court for the Northern District of Texas, Fort Worth Division.

Respectfully submitted,

PEAVLER | BRISCOE

/s/ B. Kyle Briscoe

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ATTORNEYS FOR DEFENDANT
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CERTIFICATE OF SERVICE

The undersigned Counsel for Defendant hereby certifies that a true and correct copy of the foregoing document has been forwarded to all counsel of record, pursuant to and in accordance with the Federal Rules of Civil Procedure on September 16, 2022.

/s/ B. Kyle Briscoe

B. Kyle Briscoe